

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Lynchburg Division

STUDENT A, STUDENT B, STUDENT)	
C, and STUDENT D, individually and on)	
behalf of all others similarly,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 6:20-cv-00023-NKM
)	
LIBERTY UNIVERSITY, INC., d/b/a/)	
LIBERTY UNIVERSITY,)	
)	
Defendant.)	

**PLAINTIFFS' SECOND NOTICE OF SUPPLEMENTAL AUTHORITY
REGARDING DEFENDANT'S MOTION TO DISMISS**

COME NOW the Plaintiffs, by counsel, and submit *McDermott v. The Ohio State University*, Case No. 2020-00286JD, 2020 WL 5239892, at *1 (Ohio Ct.Cl. Aug. 24, 2020), attached hereto as Exhibit 1, as supplemental authority in relation to Defendant's Motion to Dismiss (Dkt. No. 23). The *McDermott* Plaintiff sued the Ohio State University for breach of contract and unjust enrichment due to the University's refusal to give pro-rated refunds of two fees as part of its response to the COVID-19 pandemic. Defendant's partial motion to dismiss both claims, and for a more definite statement, was denied in its entirety for reasons that make dismissal of Plaintiffs' First Amended Class Action Complaint inappropriate in this case as well. Plaintiffs respectfully suggest that this decision supports their position, especially as to Liberty's request for dismissal of Count I (breach of contract) and Count II (unjust enrichment).

Dated: September 9, 2020

Respectfully submitted,

**STUDENT A, STUDENT B, STUDENT C,
AND STUDENT D**

By: /s/ Adam J. Levitt

Adam J. Levitt*

Amy E. Keller*

Laura E. Reasons*

DICELLO LEVITT GUTZLER LLC

Ten North Dearborn Street, Sixth Floor

Chicago, Illinois 60602

Tel.: 312-214-7900

alevitt@dicellolevitt.com

akeller@dicellolevitt.com

lreasons@dicellolevitt.com

Matthew S. Miller*

MATTHEW S. MILLER LLC

77 West Wacker Drive, Suite 4500

Chicago, Illinois 60601

Tel.: 312-741-1085

mmiller@msmillerlaw.com

E. Kyle McNew (VSB No. 73210)

J. Gregory Webb (VSB No. 38157)

Lisa S. Brook (VSB No. 35661)

MICHIEHAMLETT

310 4th Street, NE

Charlottesville, Virginia 22902

Tel.: 434-951-7231

kmcnew@michiehamlett.com

gwebb@michiehamlett.com

lbrook@michiehamlett.com

Counsel for Plaintiffs and the Class

* Admitted *Pro Hac Vice*

CERTIFICATE OF SERVICE

I certify that on September 9, 2020, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Turner A. Broughton (VSB No. 42627)

Harold E. Johnson (VSB No. 65591)

Amanda H. Bird (VSB No. 92110)

WILLIAMS MULLEN

200 South 10th Street, Suite 1600

Richmond, Virginia 23218

Tel.: 804-420-6000

tbroughton@williamsmullen.com

hjohnson@williamsmullen.com

Benjamin G. Chew (VSB No. 29113)

Michael Bowe (*pro hac vice* anticipated)

Michael Winograd*

Jessica N. Meyers*

BROWN RUDNICK LLP

7 Times Square

New York, New York 10036

Tel.: 212-209-4800

bchew@brownrudnick.com

mbowe@brownrudnick.com

mwinograd@brownrudnick.com

jmeyers@brownrudnick.com

/s/ Adam J. Levitt

Adam J. Levitt